

1999 SESSION

ENROLLED

HOUSE JOINT RESOLUTION NO. 706

Memorializing the Congress of the United States to enact legislation that would establish the authority of local governments to adopt "flow control" ordinances and thereby more effectively control the movement of solid waste generated within their jurisdictions.

Agreed to by the House of Delegates, February 8, 1999
Agreed to by the Senate, February 18, 1999

WHEREAS, the Code of Virginia requires local governments to develop and implement comprehensive solid waste management plans, requires local governments to achieve and maintain a 25 percent recycling rate and empowers local governments to manage solid waste in a manner that protects the health and safety of their citizens; and

WHEREAS, several local governments in various parts of the state have entered into long-term contracts or bonding obligations for waste-to-energy plants and landfills as means to manage solid waste; and

WHEREAS, these facilities must receive solid waste in guaranteed minimum amounts or penalties will have to be paid for delivery shortfalls; and

WHEREAS, for rational long-term planning Virginia's local governments should have the ability to control waste generated within their jurisdictions, including to what facility such waste flows; and

WHEREAS, the United States Supreme Court, based on the United States Constitution grant of power to Congress to regulate interstate commerce, ruled in the case of C & A Carbone v. Town of Clarkstown that local governments are restricted in their ability to require that municipal solid waste be sent to designated local facilities; and

WHEREAS, throughout the United States there have been legal challenges to the authority of local governments to effectively and efficiently manage solid waste generated within their jurisdictions, including the question of flow control which can only be clarified by federal legislation; and

WHEREAS, Congress has failed to pass several bills introduced in recent years to undo the effects of the Carbone Supreme Court decision and provide flow control authority to local governments; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Congress of the United States be urged to enact legislation that would establish the authority of local governments to adopt "flow control" ordinances and thereby more effectively control the movement of solid waste generated within their jurisdictions; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit copies of this resolution to the Congressional Delegation of Virginia in order that they may be apprised of the sense of the General Assembly of Virginia in this matter.

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